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New Atty. Dkt. No. 034536-0155
Old Atty. Dkt. No. 038602-1060

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Narmada SHENOY et al.

Title: FORMULATIONS FOR PHARMACEUTICAL AGENTS IONIZABLE AS FREE ACIDS OR FREE BASES

Appl. No.: 09/716,332

Patent No.: 6,878,733 B1

Filing Date: 11/21/2000

Examiner: Dwayne C. Jones

Art Unit: 1614

Grant Date: 04/12/2005

**REQUEST FOR RECONSIDERATION OF PATENT TERM
ADJUSTMENT UNDER 37 CFR §1.705(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants respectfully request reconsideration of the patent term adjustment as indicated on the face of the Letters Patent dated April 12, 2005.

The above-identified application was filed on November 21, 2000. The United States Patent Office has an obligation to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), in accordance with 37 CFR § 1.702. The Patent Office failed to act in a timely fashion on the application, as a Restriction Requirement was not mailed to the Applicants until January 31, 2002. Therefore, patent term adjustment is needed for the time period beginning January 21, 2002, 14 months from application filing date, and January 31, 2002, the mailing date of the Restriction Requirement, a total of 10 days.

The Patent Office mailed a non-final Office Action on June 6, 2002, which the Applicants did not respond to until December 6, 2002. This is an Applicant delay of 91 days. Applicants caused another delay of 2 days by responding to a non-final Office Action mailed July 18, 2003 on October 20, 2003.

The "Determination of Patent Term Adjustment under 35 U.S.C. 154(b)" mailed with the Notice of Allowance on December 24, 2003 states that:

"If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 days."

It is the Applicants' understanding that this statement is incorrect, and 37 CFR 1.705 makes it clear that any request for reconsideration of such patent term adjustment that will be accrued up to the projected grant date has to be made before the issue fee is paid. After the issue fee is paid, request for reconsideration can only be filed under 37 CFR 1.705(d) if "the patent is issued on a date other than the projected date of issue and *this change* necessitates a revision of the patent term adjustment".

The applicant paid the issue fee on March 24, 2004. Applicant also filed a Request for Reconsideration of Patent Term Adjustment on March 24, 2004. The Patent Office issued a Decision on Application for Patent Term Adjustment dated February 8, 2005 stating "A decision is being **held in abeyance** until after the actual patent date."

The applicant should receive Patent Term Adjustment under 35 U.S.C. 154(b)(1)(B), which guarantees the issuance of a patent within three (3) years from the filing date of the application. The three (3) year time period started on November 21, 2003. The patent grant date for this application is April 12, 2005. By granting the patent on this day, Patent Office has caused an additional delay of 498 days.

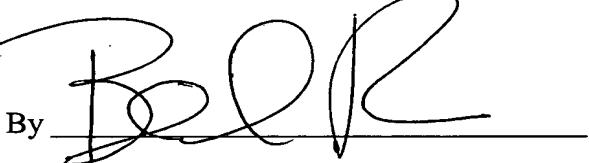
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The pending application is not subject to a terminal disclaimer.

It is respectfully requested that a patent term adjustment of 415 days be issued in favor of the Applicants.

The Patent Office acknowledged submission of the \$200.00 fee set forth in 37 CFR 1.18(e) which was filed with the original Request for Reconsideration. Therefore, no additional fees are required. However, the Commissioner is authorized to charge any fees due to Deposit Account No. 19-0741.

Respectfully submitted,

By 

Beth A. Burrous
Attorney for Applicant
Registration No. 35,087

Date 27 April 2005
FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5475
Facsimile: (202) 672-5399